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2 **UNITED STATES DISTRICT COURT**
3 **EASTERN DISTRICT OF CALIFORNIA**
4 **FRESNO DIVISION**

5 DOUGLAS RILEY,

6
7 Plaintiff,

8 v.

9 KILOLO KIJAKAZI, Acting
10 Commissioner of Social Security,

11 Defendant.

Case No. 1:20-cv-01283-GSA

**STIPULATION FOR THE AWARD
AND PAYMENT OF ATTORNEY
FEES AND EXPENSES PURSUANT
TO THE EQUAL ACCESS TO
JUSTICE ACT; ORDER**

12 IT IS HEREBY STIPULATED by and between the parties through their
13 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded
14 attorney fees and expenses in the amount of \$5,200.00, under the Equal Access to
15 Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all
16 legal services rendered on behalf of Plaintiff by counsel in connection with this civil
17 action, in accordance with 28 U.S.C. § 2412(d).
18

19 After the Court issues an order for EAJA fees to Plaintiff, the government will
20 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to
21 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability
22 to honor the assignment will depend on whether the fees are subject to any offset
23 allowed under the United States Department of the Treasury's Offset Program. After
24 the order for EAJA fees is entered, the government will determine whether they are
25 subject to any offset.

26 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
27 determines that Plaintiff does not owe a federal debt, then the government shall cause
28 the payment of fees, expenses and costs to be made directly to Counsel, pursuant to

1 the assignment executed by Plaintiff. Any payments made shall be delivered to
2 Plaintiff's counsel, Jonathan O. Peña.

3 This stipulation constitutes a compromise settlement of Plaintiff's request for
4 EAJA attorney fees, and does not constitute an admission of liability on the part of
5 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
6 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or
7 Counsel including Counsel's firm may have relating to EAJA attorney fees in
8 connection with this action.

9 This award is without prejudice to the rights of Counsel and/or Counsel's firm
10 to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the
11 savings clause provisions of the EAJA.

12
13 Respectfully submitted,

14
15 Dated: December 1, 2021

/s/ Jonathan O. Peña

JONATHAN O. PEÑA

Attorney for Plaintiff

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17
18 Dated: December 1, 2021

PHILLIP A. TALBERT

Acting United States Attorney

DEBORAH LEE STACHEL

Regional Chief Counsel, Region IX

Social Security Administration

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22 By: Tina Naicker*

TINA NAICKER

Special Assistant U.S. Attorney

Attorneys for Defendant

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25 (*Permission to use electronic signature
26 obtained via email on November 30, 2021)

ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses, **IT IS ORDERED** that fees and expenses in the amount of \$5,200.00 as authorized by 28 U.S.C. § 2412 be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: **December 1, 2021**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE